

**ENTERED**

October 19, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

ANTONIO J. VASQUEZ,

Plaintiff,

v.

BUILDING AND STANDARDS  
COMMISSION,

Defendants.

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Civil Action No. 6:20-CV-00072

**ORDER ACCEPTING MEMORANDUM AND RECOMMENDATION**

Pending before the Court is the December 15, 2020 Memorandum and Recommendation (“M&R”) signed by Magistrate Judge Jason B. Libby. (Dkt. No. 2). Magistrate Judge Libby recommends that the Court dismiss *pro se* Plaintiff Antonio J. Vasquez’s Complaint, (Dkt. No. 1), without prejudice for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(h)(3).<sup>1</sup> In the alternative, Magistrate Judge Libby recommends that the Court dismiss Vasquez’s Complaint under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief can be granted.

Vasquez was provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Vasquez did not object. As a result, review is straightforward: plain error. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005).

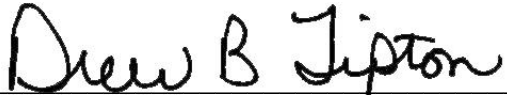
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<sup>1</sup> Rule 12(h)(3) provides in full: “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

No plain error appears. Accordingly, the Court **ACCEPTS** the M&R as the Court's Memorandum Opinion and Order. The Court **DISMISSES WITHOUT PREJUDICE** Vasquez's Complaint for lack of subject matter jurisdiction.

It is SO ORDERED.

Signed on October 18, 2021.

  
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DREW B. TIPTON  
UNITED STATES DISTRICT JUDGE